

IC 36-10-8

Chapter 8. Capital Improvement Boards in Certain Counties

IC 36-10-8-1

Application of chapter

Sec. 1. This chapter applies to all counties not having a consolidated city.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.16-1983, SEC.22.

IC 36-10-8-2

Definitions

Sec. 2. As used in this chapter:

"Board" refers to a capital improvement board of managers subject to or created under this chapter.

"Net income" means the gross income after deducting:

- (1) the necessary operational expenses of the board in performing its duties (the expenses not to exceed the amount budgeted or approved); and
- (2) any reserve provided for in the budget.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-3

Continuation; creation; authority to finance capital improvements

Sec. 3. (a) If a county had in existence on January 1, 1982, a capital improvement board of managers that was created under IC 18-7-18 (before its repeal on February 24, 1982), that board continues to exist and is subject to this chapter. In any other county to which this chapter applies, a capital improvement board of managers may be created by ordinance of the county legislative body.

(b) A county to which this chapter applies may finance, construct, equip, operate, and maintain a capital improvement under this chapter.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.213-1986, SEC.11; P.L.163-1987, SEC.8; P.L.3-1990, SEC.143.

IC 36-10-8-4

Membership; terms; vacancies; removal; oath; reimbursement of expenses

Sec. 4. (a) The board is composed of seven (7) members.

(b) The county executive shall determine in the creating ordinance which units within the county shall make appointments to the board. In addition, the creating ordinance must provide that no more than four (4) of the members be affiliated with the same political party. The creating ordinance must also provide staggered terms for the appointments.

(c) Notwithstanding subsection (b), if a board was created under IC 18-7-18 (before its repeal on February 24, 1982), three (3) members shall be appointed by the executive of the second class city and three (3) members shall be appointed by the executive of the

county. Those members shall select the seventh member, who serves as president. One (1) of the members appointed by the city executive must be engaged in the hospitality industry in the city. No more than two (2) of the members appointed by the city executive may be affiliated with the same political party and no more than two (2) of the members appointed by the county executive may be affiliated with the same political party. In addition, each member must have been a resident of the county for at least one (1) year immediately preceding the member's appointment. Initial terms of the members are as follows:

(1) One (1) of the members appointed by each appointing authority for a term ending January 15 of the year following the appointment.

(2) Two (2) of the members appointed by each appointing authority for a term ending January 15 of the second year following the appointment.

(3) The seventh member serves for a term ending January 15 of the second year following the appointment.

(d) Subsequent terms of members are for two (2) years. All terms begin on January 15. A member serves until a successor is appointed and qualified. A member may be reappointed after the member's term has expired.

(e) If a vacancy occurs on the board, the appointing authority shall appoint a new member. That member serves for the remainder of the vacated term.

(f) A board member may be removed for cause by the appointing authority who appointed the member.

(g) Each member, before entering upon the member's duties, shall take and subscribe an oath of office in the usual form. The oath shall be endorsed upon the member's certificate of appointment. The certificate shall be promptly filed with the records of the board. However, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), the certificate shall be filed with the clerk of the circuit court of the county in which the board is created.

(h) A member may not receive a salary, but is entitled to reimbursement for any expenses necessarily incurred in the performance of the member's duties.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.163-1987, SEC.9; P.L.3-1990, SEC.144; P.L.176-2009, SEC.27; P.L.229-2011, SEC.267.

IC 36-10-8-5

Organizational meeting; officers; bylaws; quorum; approval of actions

Sec. 5. (a) Immediately after January 15 each year, the board shall hold an organizational meeting. They shall elect one (1) of the members vice president, another secretary, and another treasurer to perform the duties of those offices. The officers serve from the date of their election until their successors are elected and qualified.

(b) The members may adopt the bylaws and rules that they

consider necessary for the proper conduct of their duties and the safeguarding of the funds and property entrusted to their care. A majority of the members constitutes a quorum, and the concurrence of a majority of the board is necessary to authorize any action.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-6

Name; powers

Sec. 6. The board may, acting under the name "(name of county) county capital improvement board of managers", or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), "(name of the county) and (name of the city) capital improvement board of managers", do the following:

- (1) Acquire by grant, purchase, gift, devise, lease, or otherwise, and hold, use, sell, lease, or dispose of, real and personal property and any rights and interests in it necessary or convenient for the exercise of its powers under this chapter.
- (2) Construct, reconstruct, repair, remodel, enlarge, extend, or add to any capital improvement under this chapter and condemn, appropriate, lease, rent, purchase, and hold any real property, rights-of-way, materials, or personal property needed for the purposes of this chapter, even if it is already held for a governmental or public use.
- (3) Control and operate a capital improvement, and receive and collect money due to the operation or otherwise relating to the capital improvement, including employing an executive manager and other agents and employees that are necessary for the acquisition, construction, and proper operation of the improvements and fixing the compensation of all employees with a contract of employment or other arrangement terminable at the will of the board. However, a contract may be entered into with an executive manager and associate manager for a period not longer than four (4) years at one (1) time and may be extended from time to time for the same or shorter periods.
- (4) Let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, vending machines, caterers, and all other services considered necessary or desirable for the operation of a capital improvement.
- (5) Lease a capital improvement or a part of it to any association, corporation, or individual, with or without the right to sublet.
- (6) Fix charges and establish rules and regulations governing the use of a capital improvement.
- (7) Accept gifts or contributions from individuals, corporations, limited liability companies, partnerships, associations, trusts, or foundations and funds, loans, or advances on the terms that the board considers necessary or desirable from the United States, the state, or a political subdivision or department of either, including entering into and carrying out contracts and agreements in connection with this subdivision.

- (8) Acquire the site for a capital improvement, or a part of a site by conveyance from the redevelopment commission of a city within the county in which the board is created or from any other source, on the terms that may be agreed upon.
- (9) If the board was created under IC 18-7-18 (before its repeal on February 24, 1982), exercise within and in the name of the county the power of eminent domain under general statutes governing the exercise of the power for a public purpose.
- (10) Receive and collect all money due for the use or leasing of a capital improvement and from concessions and other contracts, and expend the money for proper purposes, but any employees or members of the board authorized to receive, collect, and expend money must be covered by a fidelity bond, the amount of which shall be fixed by the board. Funds may not be disbursed by an employee or member of the board without prior specific approval by the board.
- (11) Provide coverage for its employees under IC 22-3 and IC 22-4.
- (12) Purchase public liability and other insurance considered desirable.
- (13) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including the enforcement of them.
- (14) Maintain and repair a capital improvement and all equipment and facilities that are a part of it, including the employment of a building superintendent and other employees that are necessary to maintain the capital improvement.
- (15) Sue and be sued in its own name, service of process being had upon the president or vice president of the board or by leaving a copy at the board's office.
- (16) Prepare and publish descriptive material and literature relating to the facilities and advantages of a capital improvement and do all other acts that the board considers necessary to promote and publicize the capital improvement and serve the commercial, industrial, and cultural interests of Indiana and its citizens by the use of the capital improvement. It may assist and cooperate with public, governmental, and private agencies and groups for these purposes.
- (17) Promote the development and growth of the convention and visitor industry in the county.
- (18) Transfer money from the capital improvement fund established by this chapter to any Indiana not-for-profit corporation for the promotion and encouragement of conventions, trade shows, visitors, and special events in the county.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.145; P.L.8-1993, SEC.519; P.L.176-2009, SEC.28.

IC 36-10-8-7

Additional powers

Sec. 7. The board may hire architects, engineers, accountants, attorneys, and consultants in connection with the preparation of plans and specifications for a capital improvement and its financing, paying for it as provided under section 12 of this chapter. The acquisition of a site for a capital improvement, the adoption of plans and specifications, the advertising for bids, and the awarding of contracts for the erection or equipping of the capital improvement shall be done by the board under statutes governing these activities by cities or counties. Title to or interest in any property acquired shall be held in the board's name, and the board has complete and exclusive authority to sell, lease, or dispose of it and to execute all conveyances, leases, contracts, and other instruments in connection with it.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-8

Budget; preparation; review

Sec. 8. The board shall prepare a budget for each calendar year covering the projected operating expenses, estimated income, and reasonable reserves. It shall submit the budget for review, approval, or rejection to the fiscal body of the county and, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), also the fiscal body of the second class city. The board may make expenditures only as provided in the budget as approved, unless additional expenditures are approved by the respective fiscal bodies.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.146.

IC 36-10-8-9

Deposit of net income from operation of capital improvements

Sec. 9. The net income received by the board from the operation of capital improvements under this chapter shall be deposited semiannually on June 1 and December 1 in the capital improvement fund provided in section 12 of this chapter. However, if there are bonds outstanding, the net income from the convention center shall be deposited in the capital improvement bond fund provided in section 13 of this chapter.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-10

Payment of certain operational expenses from capital improvement fund

Sec. 10. All operational expenses actually incurred by the board within the approved budget necessary to be paid before the receipt of income by the board from the leasing or use of a capital improvement, and any expenses that cannot be paid from that income because of an excess of expenses over income, shall be met and paid by funds in the capital improvement fund.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-11**Handling and expenditure of funds; treasurer; controller; reports; audits**

Sec. 11. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. He shall give bond for the faithful performance and discharge of all duties required of him by law in the amount and with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by the treasurer of the county for the use of the board shall be promptly remitted and paid over by him to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all money coming into his hands as required by this chapter and IC 6-7-1-30.1, and in accordance with general statutes relating to the deposit of public funds. Money so deposited may be invested and reinvested by the treasurer in accordance with IC 5-13 and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested. All funds invested and fully safeguarded and secured as provided in IC 5-13-9 are exempt from assessments under IC 5-13-12.

(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. He shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller, and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of him in the amount and with surety and other conditions that may be prescribed and approved by the board. He shall keep an accurate account of all money due the board and of all money received, invested, and disbursed in accordance with generally recognized governmental accounting principles and procedure. All accounting forms and records shall be prescribed or approved by the state board of accounts.

(d) The controller shall issue all warrants for the payment of money from the funds of the board in accordance with procedures prescribed by the board, but a warrant may not be issued for the payment of a claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the treasurer of the board or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(e) If there are bonds outstanding issued under this chapter, the controller shall deposit with the paying agent or officer within a

reasonable period before the date that any principal or interest becomes due sufficient money for the payment of the principal and interest on the due dates.

(f) At least annually the controller shall submit to the board a report of his accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which they were disbursed. The board may require that the report be prepared by an independent certified public accountant designated by the board. The handling and expenditure of funds is subject to audit and supervision by the state board of accounts.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.19-1987, SEC.56.

IC 36-10-8-12

Capital improvement fund; deposit of tax revenues; expenditures

Sec. 12. Unless there are bonds outstanding under this chapter, any tax revenues received by the board from the treasurer of the state as provided by law shall be deposited in a separate and distinct fund called the "capital improvement fund". Any money in the fund may be expended by the board without the necessity of an appropriation to pay:

- (1) operating expenses and maintain reasonable reserves;
- (2) for services of architects, engineers, accountants, attorneys, and consultants;
- (3) for all or part of the cost of a capital improvement;
- (4) the principal on, or interest of, any bonds issued under this chapter that cannot be paid from money in the capital improvement bond fund; or
- (5) for any other purpose that has been budgeted and approved under section 8 of this chapter.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-13

Capital improvement bond fund; amount of revenue to be deposited; excess revenues; use of funds

Sec. 13. (a) If there are bonds outstanding issued under section 14 of this chapter, the treasurer of the board shall deposit in a separate and distinct fund called the "capital improvement bond fund" all tax revenues received as provided by law until there are sufficient funds from those tax revenues, the proceeds of the bonds, or both of these sources, in the capital improvement bond fund to provide the amount required by the resolution or resolutions or trust agreement or agreements pursuant to which the bonds are issued. The treasurer of the board shall then deposit sufficient tax revenues in the fund to maintain such amounts in the fund as are required by the resolution or resolutions or trust agreement or agreements. The various accounts within the capital improvement bond fund shall be held by the treasurer of the board or by an escrow agent, depository, or trustee as may be provided in the resolution or resolutions or trust agreement

or agreements pursuant to which the bonds are issued.

(b) Any excess tax revenues not required by this section to be deposited in the capital improvement bond fund shall be deposited in the capital improvement fund, or, in the discretion of the board, in any special fund that may be established by the board for the payment of principal and interest on any bonds outstanding issued under this chapter. Amounts in the capital improvement bond fund shall be applied to the payment of principal of the bonds and the interest on them and to no other purpose.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-14

Revenue bonds; authority to issue; procedure

Sec. 14. (a) A capital improvement may be financed in whole or in part by the issuance of revenue bonds payable solely out of the net income received from the operation of a capital improvement and from the tax revenues provided by law that are required by this chapter to be deposited in the capital improvement bond fund.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall adopt a resolution authorizing the issuance of revenue bonds. The resolution must state the date or dates on which the principal of the bonds will mature (not exceeding forty (40) years from the date of issuance), the maximum interest rate to be paid, and the other terms upon which the bonds will be issued.

(c) The board shall submit the resolution to the county executive, or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), to the executive of the second class city, who shall review it. If the executive approves the resolution, then the board shall take all actions necessary to issue bonds in accordance with the resolution. The board may enter into a trust agreement with a trust company as trustee for the bondholders. An action to contest the validity of bonds to be issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The bonds shall be sold at public sale in accordance with IC 5-1-11. All bonds and interest are exempt from taxation in Indiana to the extent provided in IC 6-8-5.

(e) When issuing revenue bonds, the board may covenant with the purchasers of the bonds that any funds in the capital improvement fund may be used to pay the principal on, or interest of, the bonds that cannot be paid from money in the capital improvement bond fund.

(f) The revenue bonds may be made redeemable before maturity at the price or prices and under the terms that are determined by the board in the authorizing resolution. The board shall determine the form of bonds, including any interest coupons to be attached, and shall fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside Indiana. All bonds

must have all the qualities and incidents of negotiable instruments under statute. Provision may be made for the registration of any of the bonds as to principal alone or to both principal and interest.

(g) The revenue bonds shall be issued in the board's name and must recite on the face that the principal of and interest on the bonds is payable solely from the net income received from the operation of the capital improvement or from the net income and other funds made available for this purpose. The bonds shall be executed by the manual or facsimile signature of the president of the board, and the seal of the county shall be affixed to them. The seal shall be attested by the manual or facsimile signature of the county auditor. Any coupons attached must bear the facsimile signature of the president of the board.

(h) This chapter constitutes full and complete authority for the issuance of revenue bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by the board or any other officer, department, agency, or instrumentality of the state, the county, or any municipality is required to issue any revenue bonds except as may be prescribed in this chapter.

(i) Revenue bonds issued under this section are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under statute.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.147; P.L.42-1993, SEC.99.

IC 36-10-8-15

Bonds; covenant with purchasers; continuation of statute

Sec. 15. The Indiana general assembly covenants with the purchasers of any bonds issued under this chapter that the statute authorizing the levy of a specific tax within the county the proceeds of which are required by this chapter to be deposited in a specific fund created under this chapter will not be repealed, amended, or altered in any manner that would reduce or adversely affect the levy and collection of the tax levied, or reduce the rates or amounts of the tax, as long as the principal of, or interest on, any bonds is unpaid. The board, on behalf of the county, is authorized to make a similar pledge or covenant in any agreement with the purchasers of any bonds issued under this chapter or in any resolution or trust agreement pursuant to which the bonds are issued.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-16

General obligation bonds; authority to issue; procedure

Sec. 16. (a) A capital improvement may be financed in whole or in part by the issuance of general obligation bonds of the county or,

if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), also of the city, if the board determines that the estimated annual net income of the capital improvement, plus the estimated annual tax revenues to be derived from any tax revenues made available for this purpose, will not be sufficient to satisfy and pay the principal of and interest on all bonds issued under this chapter, including the bonds then proposed to be issued.

(b) If the board desires to finance a capital improvement in whole or in part as provided in this section, it shall have prepared a resolution to be adopted by the county executive authorizing the issuance of general obligation bonds, or, if the board was created under IC 18-7-18 (before its repeal on February 24, 1982), by the fiscal body of the city authorizing the issuance of general obligation bonds. The resolution must set forth an itemization of the funds and assets received by the board, together with the board's valuation and certification of the cost. The resolution must state the date or dates on which the principal of the bonds is payable, the maximum interest rate to be paid, and the other terms upon which the bonds shall be issued. The board shall submit the proposed resolution to the proper officers, together with a certificate to the effect that the issuance of bonds in accordance with the resolution will be in compliance with this section. The certificate must also state the estimated annual net income of the capital improvement to be financed by the bonds, the estimated annual tax revenues, and the maximum amount payable in any year as principal and interest on the bonds issued under this chapter, including the bonds proposed to be issued, at the maximum interest rate set forth in the resolution. The bonds issued may mature over a period not exceeding forty (40) years from the date of issue.

(c) Upon receipt of the resolution and certificate, the proper officers may adopt them and take all action necessary to issue the bonds in accordance with the resolution. An action to contest the validity of bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(d) The provisions of all general statutes relating to:

- (1) the filing of a petition requesting the issuance of bonds and giving notice;
- (2) the right of:
 - (A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or
 - (B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);
- (3) the giving of notice of the determination to issue bonds;
- (4) the giving of notice of a hearing on the appropriation of the proceeds of bonds;
- (5) the right of taxpayers to appear and be heard on the proposed appropriation;
- (6) the approval of the appropriation by the department of local government finance; and
- (7) the sale of bonds at public sale;

apply to the issuance of bonds under this section.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.148; P.L.90-2002, SEC.520; P.L.219-2007, SEC.146; P.L.146-2008, SEC.796; P.L.176-2009, SEC.29.

IC 36-10-8-17

Bonds; application of proceeds to construction cost; deposit in reserve subaccount

Sec. 17. (a) All money received from any bonds issued under this chapter shall be applied solely to the payment of the construction cost of the capital improvement for which the bonds are issued. The cost may include:

- (1) planning and development of the capital improvement and all buildings, facilities, structures, and improvements related to it;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that the board considers necessary or desirable to make the capital improvement suitable for use and operation;
- (4) architectural, engineering, consultant, and attorney fees;
- (5) incidental expenses in connection with the issuance and sale of bonds; and
- (6) interest during construction.

(b) To the extent authorized and directed in any resolution of the board or in any trust agreement providing for the issuance of bonds under section 14 of this chapter, proceeds of these bonds may be deposited in the reserve subaccount of the capital improvement bond fund established under section 13 of this chapter. However, the amount deposited, when added to any amount in that subaccount, may not exceed the maximum amount required to be in the subaccount by section 14 of this chapter, taking into consideration the bonds then being issued.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-18

Tax exemption

Sec. 18. All property owned or used and all income and revenues received by the board are exempt from special assessments and taxation in Indiana for all purposes.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-19

Joint and cooperative planning, financing, construction, operation, and maintenance agreements

Sec. 19. The board and the state, any department, agency, or commission of the state, or any department, agency, or commission of municipal or county government may enter into agreements, contracts, or leases with each other on the terms that are agreed upon, providing for joint and cooperative planning, financing, construction,

operation, or maintenance of a capital improvement or of the buildings, facilities, structures, or improvements that are necessary or desirable in connection with the use and operation of a capital improvement. The buildings, facilities, structures, or improvements may include:

- (1) facilities for the comfort of visitors and other persons using the capital improvement;
- (2) parking lots and garages;
- (3) walks and pedestrian ways;
- (4) landscaping, lighting, and beautification; and
- (5) open spaces, malls, or plazas desirable to produce a unified architectural and artistic setting for the capital improvement.

As added by Acts 1982, P.L.218, SEC.3.

IC 36-10-8-20

Dissolution of boards created under IC 18-7-18; escheat of funds

Sec. 20. (a) This section applies only to a board that was created under IC 18-7-18 (before its repeal on February 24, 1982).

(b) If the board is dissolved voluntarily or involuntarily, any funds in the possession of the board or to the credit of the board in the possession of the state escheat to the general fund of the county.

As added by Acts 1982, P.L.218, SEC.3. Amended by P.L.3-1990, SEC.149.

IC 36-10-8-21

Capital improvement board of managers operations; annual report

Sec. 21. (a) This section applies only to a board that was created under IC 18-7-18 (before its repeal on February 24, 1982).

(b) On or before March 31 each year, the executive manager shall submit to the board an annual report of the operations of the convention and visitor center.

As added by P.L.176-2009, SEC.30.